**REMARKS**

Favorable consideration and allowance are requested for claims 1-3, 6-8, and 24-37 in view of the following remarks.

Status of the Application

Claims 1-3, 6-8, and 24-37 are pending in this application. Claims 1-3, 6-8, 10, 32, and 33 were rejected under 35 U.S.C. § 103(a) as being unpatentable by Odom *et al.*, Cisco VoIP Call Admission Control (the "Odom reference") in view of Elek *et al.*, Admission Control Based on End-to-end Measurements (the "Elek reference"). Claim 1 has been amended. Claims 4, 5, 11-16, 18-21, and 23 were previously canceled. Claims 9, 10, 17, and 22 have been cancelled by way of the present amendment. Claims 36 and 37 have been added.

Allowance of Claims

Applicants gratefully acknowledge the indication of allowable subject matter. Of these allowed claims, claims 24-31, 34, and 35 remain in the application.

Rejection under 35 U.S.C. § 103(a)

According to the Office Action, the combination of the Odom and Elek references renders independent claim 1 obvious. In response, Applicants respectfully submit that the rejection is moot in light of the amendment to claims 1.

In particular, the present invention is directed to call admission. The probe is sent at a higher bit rate than the rate at which the call is going to be

admitted, *i.e.*, a higher bit rate than the packets to be transmitted on initiation of the continuous stream of data. What happens once the call is established is of no relevance.

In contrast, the Elek reference, as cited in the Office Action, states that "The probe rate should be equal to the maximal bitrate that the sender wishes to use for the session to estimate the available free capacity." Elek reference at 624, col. 2. Whether the bit rate rise or falls later in the transmission does ot matter.

In addition, the Elek reference has a different mechanism for giving preference to established sessions over probes for use in call admission, but it is done by sending the probes at lower priority. This is described in the Elek reference on pages 624-25 under the passage labeled "B. The basic principles of the controlled-load service" as follows:

> A host is required to probe the network to see if there is capacity avaiable for a new session before sending user data. The probe uses only available capacity within the partition for the controlled-load service class without affecting established sessions. To this end, routers are required to recognize two priorities with the service class. Established sessions are allowed to send packets at the high priority and probes are sent at the low priority.

In other words, the Elek reference does not disclose or suggest the sending of a probe at a higher bit rate than that at which an ensuing transmission will start. Therefore, this reference does not provide the subject matter of claim 1 that the Office Action acknowledged is missing from the Odom reference. As each of claims 2, 3, 6-8, 32, and 33 has claim 1 as its base claim, these claims are also patentable over the cited references.

\* \* \* \* \*

If there are any questions regarding this amendment or the application in general, a telephone call to the undersigned would be appreciated since this should expedite the prosecution of the application for all concerned.

If necessary to effect a timely response, this paper should be considered as a petition for an Extension of Time sufficient to effect a timely response, and please charge any deficiency in fees or credit any overpayments to Deposit Account No. 05-1323 (Docket #038665.56184US).

Respectfully submitted,

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